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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES

12 SHEFA LMV, INC.,

13 Plaintiff,

14 vs.

15 DAISO CALIFORNIA LLC; and DOES 1
16 through 100, Inclusive,

17 Defendants.

) Unlimited Jurisdiction

) CASE NO.

BC 670588

) COMPLAINT FOR CIVIL PENALTY AND
) INJUNCTIVE RELIEF

) (Health & Safety Code § 25249.5 et seq.)

) TOXIC TORT/ENVIRONMENTAL

18 BY FAX

1 Plaintiff, Shefa LMV, INC., hereby alleges:

2 I. PRELIMINARY STATEMENT

3 1. This complaint seeks to remedy the failure of Defendants to warn persons of exposure
4 to Di-[2-Ethylhexyl] Phthalate ("DEHP") a chemical known to the State of California to cause
5 cancer, birth defects and reproductive toxicity.

6 2. This complaint also seeks to remedy the failure of Defendants to warn persons of
7 exposure to Diisononyl Phthalate ("DINP") a chemical known to the State of California to cause
8 cancer.

9 3. Finally, this complaint seeks to remedy the failure of Defendants to warn persons of
10 exposure to Di-[n-Butyl] Phthalate ("DBP"), a chemical known to the State of California to cause
11 birth defects and reproductive toxicity.

12 4. DEHP, DINP and DBP are hereinafter referred to as the "Listed Chemicals."

13 5. Under the Safe Drinking Water and Toxic Enforcement Act of 1986, Health & Safety
14 Code § 25249.6 (also known as "Proposition 65") businesses must provide persons with a "clear and
15 reasonable warning" before exposing individuals to chemicals known to the state to cause cancer,
16 birth defects or other reproductive harm.

17 II. PARTIES

18 6. Plaintiff is a non-profit public benefit corporation formed pursuant to the laws of the
19 State of California, made up of California citizens, represented by and through its counsel of record,
20 the Law Office of Daniel N. Greenbaum.

21 7. Health & Safety Code § 25249.7(d) provides that actions to enforce Proposition 65
22 may be brought by "any person in the public interest."

23 8. Defendant DAISO CALIFORNIA LLC ("DAISO") is a business entity with ten or
24 more employees that sells, or has, at times relevant to this complaint, authorized the manufacture,
25 distribution, or sale of the products listed in the chart below (hereinafter the "PRODUCTS"), which
26 contain one of more of the Listed Chemicals for sale within the State of California without first
27 giving clear and reasonable warning:

PRODUCTS

Product Type	Product Name / Identifier	Phthalate
Plastic Case	Studieux Colorful Zipper Case; UPC: 4549131278187	DEHP
Computer Stand	Stand For Tablet PC; UPC4947678031690	DEHP
Plastic handled tool	Multi-Purpose Needle Nose Pliers; UPC4549131311181	DEHP
Clothes hanger	Anti-Slip Hanger; UPC4947678014754	DEHP
Sink stopper	Lens and Hair Catch; UPC4549131046144	DEHP
Plastic hair brush	Head Spa Brush for Men; UPC4528529099290	DINP
Plastic handled tool	Eyelet Punch; UPC4549131382402	DINP
Plastic bike lock	Bicycle Cable Lock with Key; UPC4979909936061	DBP

9. The identities of DOES 1 through 100 are unknown to Plaintiff at this time; however, Plaintiff suspects they are business entities with at least ten or more employees that have sold, authorized the distribution, or sale of one or more of the PRODUCTS defined in ¶ 8 that contain one or more of the Listed Chemicals, for sale within the State of California, without first giving clear and reasonable warning.

10. Defendants (hereinafter and collectively known as the “Defendants”) named in paragraphs 8 and 9 have at all times relevant hereto authorized the manufacture, distribution, or sale of one or more of the PRODUCTS defined in ¶ 8 that contain one or more of the Listed Chemicals, for sale within the State of California, without first giving clear and reasonable warning.

III. JURISDICTION AND VENUE

11. This Court has jurisdiction pursuant to California Constitution Article VI, section 10, because this case is a cause not given by statute to other trial courts.

12. This Court has jurisdiction over Defendants, because they are business entities that do sufficient business, have sufficient minimum contacts in California, or otherwise intentionally avail themselves of the California market, through the sale, marketing, and use of its products in

1 California, to render the exercise of jurisdiction over it by the California courts consistent with
2 traditional notions of fair play and substantial justice.

3 13. Venue is proper in this Court because the cause, or part thereof, arises in Los Angeles
4 County because Defendant's PRODUCTS are sold and consumed in this county.

5 **IV. STATUTORY BACKGROUND**

6 **A. Proposition 65**

7 14. The Safe Drinking Water and Toxic Enforcement Act of 1986 is an initiative statute
8 passed as "Proposition 65" by a vote of the people in November of 1986.

9 15. The warning requirement of Proposition 65 is contained in Health & Safety Code §
10 25249.6, which provides:

11 No person in the course of doing business shall knowingly and intentionally
12 expose any individual to a chemical known to the state to cause cancer or
13 reproductive toxicity without first giving clear and reasonable warning to
14 such individual, except as provided in Section 25249.10.

15 16. An exposure to a chemical in a consumer product is one "which results from a
16 person's acquisition, purchase, storage, consumption, or other reasonably foreseeable use of a
17 consumer good, or any exposure that results from receiving a consumer service." (27 CCR 25602(b))

18 17. Proposition 65 establishes a procedure by which the State develops a list of chemicals
19 "known to the State to cause cancer or reproductive toxicity." (Health & Safety Code § 25249.8.)

20 18. No warning need be given concerning a listed chemical until twelve months after the
21 chemical first appears on the list. (Health & Safety Code § 25249.10(b).)

22 19. Any person "violating or threatening to violate" the statute may be enjoined in any
23 court of competent jurisdiction. (Health & Safety Code, § 25249.7.)

24 20. To "threaten to violate" is defined to mean "to create a condition in which there is a
25 substantial probability that a violation will occur." (Health & Safety Code § 25249.11(e).)

26 21. In addition, violators are liable for civil penalties of up to \$2,500 per day for each
27 violation, recoverable in a civil action. (Health & Safety Code § 25249.7 (b).)

22. Actions to enforce the law “may be brought by the Attorney General in the name of the People of the State of California [or] by any district attorney [or] by any City Attorney of a City having a population in excess of 750,000 . . .” (Health & Safety Code § 25249.7(c).)

23. Private parties are given authority to enforce Proposition 65 “in the public interest,” but only if the private party first provides written notice of a violation to the alleged violator, the Attorney General, and every District Attorney in whose jurisdiction the alleged violation occurs.

24. If no public prosecutors commence enforcement within sixty days, then the private party may sue. (Health & Safety Code § 25249.7(d).)

25. No such governmental action has been pursued against Defendants.

V. FACTS

26. DEHP was placed in the Governor's list of chemicals known to the State of California to cause cancer on January 1, 1988. (27 CCR 27001(b))

27. DEHP was placed in the Governor's list of chemicals known to the State of California to cause reproductive toxicity on October 24, 2003. (27 CCR 27001(c))

28. DINP was placed in the Governor's list of chemicals known to the State of California to cause cancer on December 20, 2013. (27 CCR 27001(b))

29. DBP was placed in the Governor's list of chemicals known to the State of California to cause reproductive toxicity on December 2, 2005. (27 CCR 27001(c))

30. DEHP, DINP and DBP are referred to hereafter as the “Listed Chemicals.”

31. Defendants are the manufacturer and marketer and retailer of the PRODUCTS for use by individuals in the home and in other endeavors.

32. The PRODUCTS are sold through various retailers located in California for use by citizens of the State of California.

33. Individuals who purchase, handle, or use the PRODUCTS are exposed to the Listed Chemicals chiefly through:

a. contact between the item and the skin;

1 b. transfer of the Listed Chemicals from the skin to the mouth, both by transfer of
2 DEHP directly from the hand to mouth and by transfer of the Listed Chemicals from the skin
3 to objects that are placed in the mouth, such as food; and

4 c. through absorption of the Listed Chemicals through the skin.

5 34. Such individuals are thereby exposed to the Listed Chemicals that is present on or in
6 the PRODUCTS during the intended and reasonably foreseeable use of the PRODUCTS.

7 35. At all times material to this complaint, Defendants have had knowledge that the
8 PRODUCTS contain the Listed Chemicals and that an individual's skin may contact the Listed
9 Chemicals through the intended and reasonably foreseeable use of the PRODUCTS.

10 36. At all times material to this complaint, Defendants have had knowledge that
11 individuals within the State of California handle the PRODUCTS, which contain the Listed
12 Chemicals.

13 37. At all times material to this complaint, Defendants knew that the PRODUCTS were
14 sold throughout the State of California in large numbers, and Defendants profited from such sales.

15 38. Notwithstanding this knowledge, Defendants intentionally authorized and reauthorized
16 the sale of the PRODUCTS, thereby exposing consumers to the Listed Chemicals.

17 39. Therefore, at all times material to this complaint, Defendants have knowingly and
18 intentionally exposed individuals within the State of California to the Listed Chemicals.

19 40. The exposure is knowing and intentional because it is the result of the Defendants'
20 deliberate act of authorizing the sale of products known to contain the Listed Chemicals, in a manner
21 whereby these products were, and would inevitably be, sold to consumers within the state of
22 California, and with the knowledge that the intended use of this PRODUCTS would result in
23 exposures to the Listed Chemicals by individuals within the State of California.

24 41. Defendants have failed to provide clear and reasonable warnings that the use of the
25 PRODUCTS in question in California results in exposure to a chemical known to the State of
26 California to cause cancer, birth defects, and other reproductive harm, and no such warning was
27 provided to those individuals by any other person.

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VI. FIRST CAUSE OF ACTION

(Against All Defendants for Violation of Proposition 65)

42. Paragraphs 1 through 41 are re-alleged as if fully set forth herein.

43. By committing the acts alleged above, Defendants have, in the course of doing business, knowingly and intentionally exposed individuals in California to chemicals known to the State of California to cause cancer or reproductive toxicity without first giving clear and reasonable warning to such individuals, within the meaning of Health & Safety Code § 25249.6.

44. Said violations render Defendants liable to Plaintiffs for civil penalties not to exceed \$2,500 per day for each violation, as well as other remedies.

PRAYER FOR RELIEF

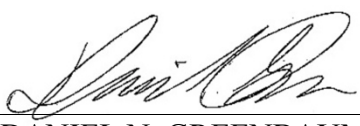
WHEREFORE, Plaintiffs pray that the Court:

1. Pursuant to the First Causes of Action, grant civil penalties according to proof;
2. Pursuant to Health & Safety Code § 25249.7, enter such temporary restraining orders, preliminary injunctions, permanent injunctions, or other orders prohibiting Defendant from exposing persons within the State of California to Listed Chemicals caused by the use of their products without providing clear and reasonable warnings, as Plaintiffs shall specify in further application to the court;
3. Award Plaintiffs their costs of suit;
4. Grant such other and further relief as the court deems just and proper.

Respectfully submitted,

DATED: July 24, 2017

LAW OFFICE OF DANIEL N. GREENBAUM

By: 
DANIEL N. GREENBAUM
Attorneys for Plaintiff
Shefa LMV, INC.